

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

STEPHEN W. BYERLY,
PLAINTIFF,

vs.

JAMES L. DEWEES, ET AL.,
DEFENDANTS.

CASE NO. 1:19-CV-2882

JUDGE:

FILED

JAN 13 2020

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
AKRON

NOTICE OF LAWSUIT AND WAIVER OF SERVICE OF SUMMONS

Now comes the Plaintiff, Stephen W. Byerly, in prose, and gives notice that Defendants have been served with a stamp-signed copy of the Complaint and Waiver of Service of Summons by U.S. Mail, First-Class, postage prepaid pursuant to Fed. R. Civ. P. Rule 4 (d), (see: attached Exhibit 1) mailed this the 5th day of January, 2020.

Respectfully submitted,

Stephen W. Byerly
MR. STEPHEN W. BYERLY PRO SE
A434-590
MARION CORR. INST.
P.O. BOX 57
MARION, OHIO
43301-0057

Exhibit 1

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OHIO

STEPHEN W. BYFELY : Case No. 1:19-cv-2882
Plaintiff, :
VS. :
JAMES L. DEWEES, ET AL. :
Defendants. :

NOTICE OF LAWSUIT AND REQUEST TO WAIVE SERVICE OF SUMMONS

Why are you getting this?

A lawsuit has been filed against you, in this Court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the Court. It is a request that, to avoid expenses you waive formal service by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within at least 30 days from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope of other means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the Court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see date below) to answer the complaint.

If you do not return the signed waiver within the time indicated. I will arrange to have the summons and complaint served on you. And will ask the Court to require you, to pay the expenses of making service.

I certify that this request is being sent to on the date below.

Date:

1-5-2020

Stephen W. Byfely
Plaintiff

To: STEPHEN W. BYERLY

I have received your request to waive service of summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I agree to save the expense of serving a summons and complaint in this case.

I understand that I, will keep all defenses or objection to the lawsuit, the Court's jurisdiction and the venue of this action, but that I waive any objection to the absence of summons or of service.

I also understand that I must file and serve an answer or a motion under Rule 12 within 60 days from 1/16/20 the date when this request was sent. If I fail to do so a default judgement will be entered against you.

Date : _____

Defendant

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expense of serving a summons and complaint. A defendant who is located in the United States and fails to return a signed waiver of service requested by plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the Court has no jurisdiction over the matter or over the defendant of defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the Plaintiff and file a copy with the Court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.